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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/783,096	02/15/2001	Kazuhiro Kusuda	Q63180	4487

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SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC
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Washington, DC 20037

EXAMINER

COBURN, CORBETT B

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 06/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/783,096

Applicant(s)

KUSUDA, KAZUHIRO

Examiner

Corbett B. Coburn

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-- **Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 01 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-13, 15-20, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-13, 15-20, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the passageway formed between the plurality of concurrently existing tracks must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Interpretation Note

2. Applicant has amended the claims to replace “field regions” with “tracks”. Examiner has not found the word “tracks” in Applicant’s disclosure. Examiner believes these “tracks” are the “courses” described on pages 6 and 7 of the specification. Furthermore, in view of Applicant’s arguments, Examiner believes that by “tracks”, Applicant means, “independent tracks” – i.e., a dirt track and a turf track. While this interpretation is not required by the specification, this is the interpretation that Examiner will place on the term.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-6, 8-13, 15-20 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fongeallaz in view of Filiczkowski (US Patent Number 5,106,098).

Claims 1, 8, 15: Fongeallaz teaches a computerized game system with a racing field formed on a predetermined board (Fig 13) that is electronically displayed on a screen. There is a running model to which an inherent ability parameter varying in accordance with a given environment is assigned. (Col 5, 41-45) The racing field (Fig 13) comprises a plurality of tracks (L1-L16) in which the running model runs based on a current ability parameter in accordance with the respective track. (Col 5, 40-56) These tracks clearly exist concurrently on the same game board. (Fig 13) Fongeallaz does not specifically teach independent tracks. Filiczkowski teaches independent tracks (abstract), i.e., a dirt track and a turf track (Fig 1B). Filiczkowski teaches that this allows the invention to closely simulate actual horse race track action. (Abstract) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Fongeallaz track in view of Filiczkowski's teachings to include independent tracks (i.e., a dirt track and a turf track) in order to simulate actual horse track action.

Claims 2, 3, 9, 10, 16, 17: Fongeallaz teaches the invention substantially as claimed. Fongeallaz teaches use of a track with regions having different attributes. (Col 5, 40-62) For instance, Fongeallaz suggests use of dry track and mud track attributes. (Col 5, 43-45) Fongeallaz describes a steeplechase game in which there are flat regions where the running model performs steady running in which the current ability parameter is maximized and in other regions there is a region formed so as to obstruct the steady running (obstacles). (Col 5, 63-66) Fongeallaz fails to explicitly teach entire tracks

where the current ability parameter of the running model is maximized or minimized.

Filiczkowski teaches a dirt track and a turf track (Fig 1B) where the current ability parameter of the running model is maximized or minimized. Filiczkowski teaches that this allows the invention to closely simulate actual horse race track action. (Abstract) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Fongellaz track in view of Filiczkowski's teachings to include a dirt track and a turf track where the current ability parameter of the running model is maximized or minimized in order to simulate actual horse track action.

Claims 5, 12, 19: Filiczkowski teaches that the running models can run races on both tracks. (Abstract) The starting posts are essentially passageways formed between the plurality of concurrently existing tracks so that the running models can enter the tracks. The finish lines are essentially passageways formed between the plurality of concurrently existing tracks so that the running models can exit the tracks.

Claims 6, 13, 20: Fongellaz teaches the plurality of tracks form concentric racing courses. (Col 4, 36-43) Filiczkowski's Fig 1 B shows the plurality of tracks form concentric racing courses.

Claims 4, 11, 18, 22: Fongellaz teaches the invention substantially as claimed.

Fongellaz teaches use of a track with regions having different attributes. (Col 5, 40-62) For instance, Fongellaz suggests use of dry track and mud track attributes. (Col 5, 43-45) While Fongellaz does not specifically teach dirt and turf track sections, these are the two main types of tracks used in horseracing. Filiczkowski teaches a dirt track and a turf track. Filiczkowski teaches that this allows the invention to closely simulate actual horse

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race track action. (Abstract) It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified Fongeallaz track in view of Filiczkowski's teachings to include a dirt track and a turf track in order to simulate actual horse track action.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fongeallaz and Filiczkowski as applied to claim 22 above, and further in view of Ikeda et al. (US Patent Number 6,371,854).

Claims 23: Fongeallaz and Filiczkowski teach the invention substantially as claimed. Fongeallaz teaches storing a "library" of data concerning the attributes and abilities of each running model. (Col 5, 50-62) Fongeallaz does not, however, specifically teach adding a game value to the "library" in accordance with the result of the race. Ikeda, a game in the same art, teaches allowing players to raise and train their own horses (running models). This training includes running races and recording the result of the race in the horse's library of information. Allowing players to raise and train their own horse gives the player a greater sense of involvement in the game. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Fongeallaz's library by add a game value to the horse's "library" of attributes in accordance with the result of the race as taught by Ikeda in order to allow the player to raise and train the horse, thus giving the player a greater sense of involvement in the game.

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Response to Arguments

6. Applicant's arguments with respect to claims 1-6, 8-13, 15-20, 22 & 23 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319. The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



cbc

June 4, 2003



JESSICA HARRISON
PRIMARY EXAMINER